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Attorneys for Non-Party,
Fox Rothschild, LLP

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

ULRICH RISCHER, an individual,
Plaintiff,

vs.

BANLAVOURA I INC. TRUST, a
California corporation, ENGLEWOOD
I INC. TRUST, California corporation,
BANLAVOURA I INC., California
corporation, ENGLEWOOD I INC.,
California corporation, LARRY
ESACOVE, an individual, and AIDA
ESACOVE, an individual,
Defendants.

Case No.: CV 96-03886 SJO-RNB

Honorable S. James Otero

**OPPOSITION OF NON-PARTY
FOX ROTHSCHILD TO
FEATHERBY'S MOTION FOR AN
ORDER OF CONTEMPT AGAINST
FOX ROTHSCHILD, LLP;
DECLARATION OF STACI
RIORDAN; EXHIBITS.**

Hearing Date: August, 2010

Time: 10:00 a.m.

Room: 1, 2nd Floor

E-Filed on July 26, 2010 at 3:00 p.m.

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Non-Party Fox Rothschild, LLP ("Fox") respectfully submits the following
Opposition to Assignee Ramona Featherby dba California Judicial Recovery
Specialist's ("Featherby") Motion for an Order Holding Third Party Fox Rothschild,
LLP in Contempt ("Motion") as follows:

**NON-PARTY FOX ROTHSCHILD'S OPPOSITION TO FEATHERBY'S MOTION FOR AN ORDER OF
CONTEMPT AGAINST FOX ROTHSCHILD, LLP**

I. INTRODUCTION

An Assignment Order forces a party bound by the order to give a judgment debtor's right to payment to a judgment creditor instead. Fox is neither the judgment debtor nor judgment creditor in this matter.

It is undisputed that Fox is not a third party named in the Assignment Order in this case. By definition, Fox cannot violate an order it is not subject to.

And even if Fox were somehow subject to the Assignment Order, Fox has no property to which it would attached. Fox never held money for the Esacoves, was not a depository for the Esacoves, nor was Fox a courier of money for the Esacoves.

This issue was addressed over a year ago with Featherby's former counsel, John Guerrini. Fox's position was then as it is now – Fox is not subject to the Assignment Order and even if it were, Fox does not, and is not, holding any money which could be attached. Fox advised Featherby that if she holds the (mistaken) belief that EVMC Real Estate Consultants, Inc. "(EVMC)" is, or was, making payments in violation of the Assignment Order, that issue should be taken up with EVMC and its corporate counsel.

Contrary to Featherby's claims, Larry Esacove testified in his debtor's exam that he did not receive any income from EVMC. To date, there is no indication that Featherby followed up with EVMC vis a viz the Assignment Order.

Fox provided legal services to both EVMC and the Esacoves, and to date, has been partially compensated for those services. Fox does not have any excess monies belonging to the Esacoves.

As Fox informed Featherby over a year ago, she has targeted the wrong party, who sadly now joins her in trying to collect a debt from the Esacoves.

Nonetheless, Featherby continues her relentless persecution of Fox, wasting resources and judicial economy, brazenly filing a motion devoid of legal support and served on the wrong party. Accordingly, Featherby's motion is wholly without

1 merit and must be denied.

2 **II. STATEMENT OF FACTS**

3 **A. Procedural History**

4 In or about December 2008, Fox undertook representation of Larry and Aida
5 Esacove (the “Esacoves”) Declaration of Staci Jennifer Riordan (“Riordan Decl.”) ¶
6 3. Fox’s internal billing number for the Esacoves was 56060-1. *Id.*

7 In or about February 2009, Fox was also advising EVMC Real Estate
8 Consultants, Inc. (“EVMC”), via its authorized representatives, the Esacoves in
9 connection with litigation. *Id.*, ¶ 4.¹

10 For simplicity purposes, Fox used billing number 56060-1 for work done for
11 both EVMC and the Esacoves, but eventually designated separate billing numbers
12 for EVMC on March 18, 2009 and July 31, 2009. *Id.*, ¶ 5. Fox’s internal billing
13 numbers for EVMC matters also began with 56060-2 and 56060-3. *Id.*

14 On June 30, 2009, Fox made a formal appearance on behalf of EVMC in the
15 then pending middle district of Florida Case, *USA Flea Market v. EVMC Real*
16 *Estate Consultant, Inc.*, CASE NO. 8:06-CV-00431-SCB-TBM (“*Flea Market v.*
17 *EVMC*”). *Id.*, ¶ 6, Ex. A.

18 When EVMC failed to make the payments promised under the settlement
19 agreement in *Flea Market v. EVMC*, Flea Market registered the judgment in the
20 Central District of California (Case No. 10:CV-00917-ABC-MAN), and assigned it
21 to Featherby. *See* Docket Entries 1 & 2, 10:CV-00917-ABC-MAN.

22 In connection with its representation of EVMC under matters 56060-2 and
23 56060-3, Fox billed and received \$35,008.67. *Id.*, ¶ 7.

24 In connection with its representation of EVMC and the Esacoves under matter

25
26 ¹ In the interest of protecting the attorney-client privilege, Fox has tried to provide the Court with the appropriate
27 amount of information while continuing to protect its former clients interests. Further information will be provided to
the Court in Camera, on request.

1 56060-1, Fox received approximately \$129,991.33. *Id.*, ¶ 8. Due to non-payment
2 among other reasons, Fox ceased representing the Esacoves and EVMC in or about
3 November 2009. *Id.*, ¶ 9.

4 Currently, Fox is seeking \$297,730.90 in unpaid attorneys fees and cost from
5 the Esacoves, EVMC and other entities, in the Los Angeles State Court action, *Fox*
6 *Rothschild, LLP v. Larry Esacove et al*, Case No. BC 436130, filed April 20, 2010
7 (“State Court Collection Action”). *Id.*, ¶ 10, Ex. B. To date, the \$297,730.90
8 remains unpaid. *Id.*, ¶ 11.

9 **B. The Assignment Order in this Matter**

10 The Assignment Order in this matter issued in November 2008, well prior to
11 Fox’s involvement in this Case. Assignment Order, ¶ 3, Featherby Declaration, Ex.
12 3, and Docket Entry 329. The Court, *inter alia*, assigned Featherby the right to
13 receive “[a]ny and all proceeds, commissions, and payments due to Judgment
14 Debtors”² from 18 third parties, one of which is EVMC Real Estate Consultants,
15 Inc. (“EVMC”). *Id.*

16 Despite the fact that Fox is not one of the third parties named in the
17 Assignment Order, Featherby contacted Fox via her prior counsel in August 2009,
18 purporting to meet and confer on Fox’s alleged violation of the Assignment Order.
19 *Id.*, ¶ 12, Ex. C. As typical in this matter, the alleged meet and confer letter
20 contained no legal analysis and misstated material facts. *Id.*

21 Fox responded then as it is now – Fox is not subject to the Assignment Order
22 and even if it were, Fox does not and is not holding any money which could be
23 attached. *Id.*, ¶ 13, Ex. D. Fox advised Featherby that if she holds the (mistaken)
24 belief that EVMC is, or was, making payments in violation of the Assignment
25 Order, that issue should be taken up with EVMC and its corporate counsel. *Id.*

26
27 ² “Judgment Debtor” means the person against whom a judgment is rendered. CCP 680.250

1 There is no indication that Featherby followed up with EVMC. *Id.*, ¶ 14.

2 **III. LEGAL STANDARD FOR CONTEMPT**

3 To hold Fox in contempt, Featherby must establish: "(1) that [Fox] violated
4 a court order, (2) beyond substantial compliance, (3) not based on a good faith and
5 reasonable interpretation of the order, (4) by clear and convincing evidence."

6 *Labor/Cmty. Strategy Ctr. v. L.A. County Metro. Transp. Auth.*, 564 F.3d 1115,
7 2009 U.S. App. LEXIS 9728, at *22 (9th Cir. May 5, 2009).

8 Featherby failed to meet her burden and her motion must be denied.

9 **IV. FEATHERBY HAS FAILED TO ESTABLISH THAT FOX IS IN**
10 **CONTEMPT OF COURT**

11 **A. Fox has Not Violated a Court Order Because An Assignment**
12 **Order Only Binds The Parties Listed in the Order**

13 When an assignment order issues, it gives a judgment creditor the right to
14 receive payments or future payments from a third party. CCP § 708.510. To
15 receive money under an assignment order, a judgment creditor must (1) give notice
16 to the named third party, and (2) the third party must be **obligated** to make
17 payments to the judgment debtor. CCP § 708.540. (Emphasis Added.)

18 Here, Fox is not named in the Assignment Order, nor is it obligated to make
19 payments to the judgment debtors in this matter. Thus, from the plain text of the
20 assignment order alone, Featherby's motion must be denied.

21 **B. Featherby Has Moved Against the Wrong Party**

22 Fox does not dispute that EVMC is named in the Assignment Order. Fox has
23 no knowledge as to whether EVMC was served with the Assignment Order. At
24 issue is whether EVMC had any obligation to make payment to Esacoves.

25 The proper party to respond to this issue is EVMC, a third party bound by the
26 Assignment Order, not Fox. Thus, if Featherby seeks to hold someone, or
27

1 something, in contempt for violating an Assignment Order, Fox respectfully
2 suggests she should look to those third parties named in the Assignment Order or to
3 the Judgment Debtors. CCP § 1209(5); Schwartz and Ahart, CALIFORNIA PRACTICE
4 GUIDE, ENFORCING JUDGMENTS AND DEBTS, section 6:1455, pg. 6G-44 (2008) ;
5 Riordan Decl..¶ 13, Ex. D.

6 C. **An Assignment Order Does Not Prevent a Corporation From**
7 **Paying its Own Debts.**

8 Fox does not deny that it received payment from EVMC for services rendered
9 to EVMC. Featherby cites to no authority, since there is none, that prevents a
10 corporation from paying its obligations. Even a person or entity with a money
11 judgment entered against it is permitted to pay its debts and obligations.

12 Here, Fox performed services for EVMC and was properly compensated for
13 those services by EVMC. Featherby as the current owner of the judgment entered in
14 *Flea Market v. EVMC* is clearly aware that Fox performed work for EVMC. *See*
15 Declaration of Ramona Featherby, ¶13, Docket Entry 474.

16 Thus, Featherby has failed to met her burden to show that Fox violated a court
17 order by accepting payment from EVMC for services rendered to EVMC.
18 Accordingly, her motion should be denied.

19 D. **An Assignment Order Does not Prohibit Loans to the Judgment**
20 **Debtors.**

21 The Assignment Order at issue assigns “[a]ny and all proceeds, commissions,
22 and payments due to Judgment Debtors” to Featherby. Featherby has failed to
23 identify any proceeds, commissions, and payments due to Judgment Debtors from
24 EVMC. What the evidence submitted in support of the Motion, is that EVMC
25 loaned the Esacoves Money.

26 ///

1 1. Loans and “proceeds, commissions, and payments” are not
2 synonymous

3 It would be unreasonable to interpret the Assignment Order to mean that
4 loans and “proceeds, commissions, and payments” are synonymous.

- 5 • Black’s Law Dictionary defines loans as: “a lending. Delivery by one
6 party to and receipt of another party of sum of money upon agreement,
7 express or implied, to repay it with or without interest.” BLACK’S LAW
8 DICTIONARY, SPECIAL DELUXE Edition (5th Ed. 1979.) p. 844.
9 • Black’s Law Dictionary defines proceeds as: “issues; income; yield;
10 receipts; produce; money or articles or other thing of value arising or
11 obtained by the sale of property; the sum, amount or value of property sold
12 or convert into money or into other property.” *Id.*, pg. 1086.
13 • Merriam-Webster’s Dictionary defines commissions as: “a fee paid to an
14 agent or employee for transacting a piece of business or performing a
15 service; *especially* : a percentage of the money received from a total paid
16 to the agent responsible for the business.”³
17 • Blacks Law dictionary defines payments as: “performance of a duty,
18 promise, or obligation or discharge of a debt or liability, by the delivery of
19 money or other value by a debtor to a creditor, where the money or other
20 valuable thing is tendered and accepted as extinguishing debt or obligation
21 in whole or in part.” BLACK’S LAW DICTIONARY, *supra*, pg. 1016.

22 In sum “proceeds, commissions, and payments” are complete transfers of
23 money or other property from one person to another for some type of consideration.
24 In contrast, a loan is merely temporary. Loan funds are not the borrowers property
25

26
27 ³ See: <http://www.merriam-webster.com/dictionary/commission>

1 to keep and enjoy exclusively. Loans must be repaid. BLACK'S LAW DICTIONARY,
2 *supra*, pg. 844.

3 2. EJL does not include "loans" as a type of payment properly includable
4 in an Assignment Order.

5 The Assignment Order does not include loan funds, nor could it as "loan" is
6 not enumerated as a "payment" under section 708.510. Thus, the Assignment Order
7 does not expressly prohibit the enumerated third parties bound by it from making
8 loans to the judgment debtors. Fox is not aware of any company "obligated" to
9 make a loan.

10 As discussed above, a loan is fundamentally different from a payment.
11 Lending is only temporary in nature. BLACK'S LAW DICTIONARY, *supra*, pg. 844. A
12 loan needs to be repaid or returned to the originator. *Id.* Even the government treats
13 loans different that proceeds commissions and payments. "Proceeds, commissions,
14 and payments" are income and thus, taxed, while loan funds are a debt and are not.
15 See www.irs.gov.

16 3. A reasonable person would not interpret the Assignment Order to
17 prohibit loans

18 Fox anticipates that Featherby will argue it should have construed the
19 Assignment Order as prohibiting the Esacoves from accepting loans from EVMC.
20 Such an argument is both unsupported by law, and not a reasonable interpretation of
21 the Assignment Order.

22 First, a diligent search produced no case law prohibiting Fox from accepting
23 monies that came from loans to a judgment debtor from an entity subject to an
24 assignment order, nor was any such authority cited by Featherby in any
25 correspondence or in her moving papers.

1 Second, it would be unreasonable to think that a third party business is
2 prohibited from undertaking normal business activities due to an assignment order.
3 Fox no longer represents EVMC and never represented it in a corporate capacity.
4 Fox cannot speak to the reasoning behind its business dealings nor was it obligated
5 to.

6 **E. EVMC Was Authorized to Loan the Esacoves Money**

7 Aida Esacove, now deceased, informed Fox that EVMC was authorized to
8 loan the Esacoves money. This was substantiated by EVMC minutes. Riordan
9 Decl. ¶ 16, Ex. E. This was also substantiated by Larry Esacove's debtor exam
10 testimony. ; Riordan Decl. ¶ 18; *see generally*, Featherby Declaration, Exhibits 6 &
11 7.

12 Further, EVMC documents were also produced showing Larry Esacove could
13 sign checks on behalf of EVMC. Riordan Decl. ¶ 18, Ex. F. As discussed above,
14 loans are not proceeds, commissions or payments. Since EVMC had no obligation
15 to give the Esacoves monies, Fox could not have interfered with Featherby's rights
16 under the assignment order.

17 Thus, Featherby has failed to met her burden of producing clear and
18 convincing evidence, the highest burden of proof possible in a civil action, to show
19 that Fox violated a Court Order by accepting payment from the Esacoves, for
20 services actually rendered, from funds loaned to them by EVMC. Accordingly,
21 Featherby's motion should be denied.

22 **F. Featherby's Suggested Interpretation of the Assignment Order is**
23 **Inequitable.**

24 Featherby drafted the Assignment Order, and any ambiguities in that order
25 should be construed against her. Cal. Civil Code Section 1654. If she wished for
26 the Court to consider including loans, she should have included it in the first
27

1 instance or moved to modify the Assignment Order when she learned that the
2 Esacoves were receiving loans from EVMC over a year ago. Riordan Decl. ¶¶ 12 &
3 13, Exs. C & D; *see generally*, Featherby Declaration, Exhibits 6 & 7. Featherby
4 did neither.

5 It would inequitable to interpret the Assignment Order from prohibiting the
6 Esacoves from paying current obligations. Fox provided them services. The
7 Esacoves paid (at least in part) for those services.

8 There is no law that prohibits Debtors from taking out loans. In this case, the
9 Esacoves had two mortgages that were issued while the judgment was in place.
10 Under Featherby's line of reasoning, the person who sold the house to the Esacove,
11 and received monies that the Esacoves received from a bank, should be held in
12 contempt of court also.

13 If the Court decides to adopt Featherby's suggested meaning of the
14 Assignment Order – that loans are synonymous with payments -- it would be
15 embarking down a slippery slope. First, Judgment Debtors and EVMC are not
16 represented in connection with this motion, nor are they the target of this motion.
17 They have not had a chance to be heard on the issue of whether EVMC loans should
18 be recharacterized as proceeds, commissions or payments, which could violate their
19 due process rights.

20 Second, a decision in favor of Featherby would conceivably cause a slew of
21 other contempt motions as Larry Esacove testified that he used the money loaned to
22 him by EVMC to pay a variety of bills, *inter alia*, his mortgage, his car, his medical
23 bills, his grocery bills, nail and hair salon expenses and restaurants. Esacove Decl. ¶
24 12. Would all of those non-parties be held liable for violating an order that did not
25 apply to them as they were not named?

1 In sum, Civil Contempt is a serious charge, and it is remedy not appropriate
2 or equitable in these circumstances against Fox. While it is understandable that
3 Featherby is upset as she has collected very little money in almost 3 years of trying,
4 Fox, as demonstrated herein, is not the right target for her anger, nor is it a deep
5 pocket.

6 Fox is now in the same situation as Featherby – trying to collect money from
7 the Esacoves And Fox, unlike Featherby, provided services to the Esacoves, for
8 which it has not been paid, and has suffered harm from the Esacoves' failure to meet
9 their obligations. The loss caused by the Esacoves has personally effected its
10 attorneys in the Los Angeles office.⁴

11 Although a collection action is pending, Fox is not optimistic about its ability
12 to collect.

13 IV. CONCLUSION

14 For the foregoing reasons, Fox respectfully requests that the Court deny
15 Featherby's Motion in full.

16
17
18 Dated: July 26, 2010

FOX ROTHSCHILD LLP

19
20 /s/ Staci Jennifer Riordan
21 Malcolm S. McNeil
22 Staci Jennifer Riordan
23 Attorneys for Third Party
24 Fox Rothschild,LLP
25

26
27 ⁴ Again, we would be happy to provide further information to the Court if required, but in the
28 interest of privacy, further details have been omitted.

DECLARATION OF STACI J. RIORDAN

DECLARATION OF STACI J. RIORDAN

I, **Staci J. Riordan**, declare as follows:

1. I am an attorney duly licensed in the state of California and the Central District of California. I am an associate of Fox Rothschild, LLP ("Fox"). I have personal knowledge of the facts set forth herein, which are known by me to be true and correct, and if called as a witness, I could and would competently testify thereto.

2. I submit this declaration in support of Fox's Opposition to Assignee Ramona Featherby dba California Judicial Recovery Specialist's ("Featherby") Motion for an Order Holding Third Party Fox Rothschild, LLP in Contempt ("Motion")

Procedural History

3. In or about December 2009, Fox undertook representation of Larry and Aida Esacove (the "Esacoves") Fox's internal billing number for the Esacoves was 56060-1.

4. In or about February 2009, Fox was also advising EVMC Real Estate Consultants, Inc. ("EVMC"), via its authorized representatives, the Esacoves in connection with litigation. In the interest of protecting the attorney-client privilege, Fox has tried to provide the Court with the appropriate amount of information while continuing to protect its former clients interests. Further information will be provided to the Court in Camera, on request.

5. For simplicity purposes, Fox used billing number 56060-1 for work done for both EVMC and the Esacoves, but eventually designated separate billing numbers for EVMC on March 18, 2009 and July 31, 2009. Fox's internal billing numbers for EVMC matters were 56060-2 and 56060-3.

6. On June 30, 2009, Fox made a formal appearance on behalf of EVMC in the then pending middle district of Florida Case, *USA Flea Market v. EVMC Real Estate Consultant, Inc.*, CASE NO. 8:06-CV-00431-SCB-TBM ("*Flea Market v.*

1 EVMC"). A true and correct copy of Fox's Notice of Appearance is attached hereto
2 as Exhibit A.

3 7. In connection with its representation of EVMC under matters 56060-2
4 and 56060-3, Fox billed and received \$35,008.67.

5 8. In connection with its representation of EVMC and the Esacoves under
6 matter 56060-1, Fox received approximately \$129,991.33.

7 9. Due to non-payment among other reasons, Fox ceased representing the
8 Esacoves and EVMC in or about November 2009.

9 10. Currently, Fox is seeking \$297,730.90 in unpaid attorneys fees and cost
10 from the Esacoves, EVMC and other entities, in the Los Angeles State Court action,
11 *Fox Rothschild, LLP v. Larry Esacove et al*, Case No. BC 436130, filed April 20,
12 2010 ("State Court Collection Action"). A true and correct copy of the State Court
13 Action is attached hereto as Exhibit B.

14 11. To date, the \$297,730.90 remains unpaid.

15 **The Assignment Order in this Matter**

16 13. Despite the fact that Fox is not one of the third parties named in the
17 Assignment Order, Featherby contacted Fox via her prior counsel in August 2009,
18 purporting to meet and confer on Fox's alleged violation of the Assignment Order.
19 As typical in this matter, the alleged meet and confer letter contained no legal
20 analysis and misstated material facts. A true and correct copy of Featherby's
21 August 2009 letter is attached hereto as Exhibit C.

22 14. Fox responded then as it is responding now – Fox is not subject to the
23 assignment order and even if it were, Fox does not and is not holding any money
24 which could be attached. Fox advised Featherby that if she holds the (mistaken)
25 belief that EVMC is, or was, making payments in violation of the Assignment
26 Order, that issue should be taken up with EVMC and its corporate counsel. A true
27 and correct copy of Fox's August 20, 2009 letter is attached hereto as Exhibit D.
28

1 15. There is no indication that Featherby followed up with EVMC about
2 her concerns regarding EVMC's alleged compliance with the Assignment Order.

3 16. Aida Esacove, now deceased, informed me that EVMC was authorized
4 to loan the Esacoves money. This was substantiated by EVMC minutes. A true and
5 correct copy of EVMC minutes date November 1, 2005 are attached hereto as
6 Exhibit E.

7 17. In his debtor's exam when I was present, Larry Esacove testified that
8 he never received payment, proceeds or commissions from EVMC. Mr. Esacove
9 testified that EVMC loaned him money, which he planed on repaying.

10 18. EVMC documents were produced in this matter showing Larry
11 Esacove could sign checks on behalf of EVMC. A true and correct copy of EVMC
12 minutes dated November 12, 2005 are attached hereto as Exhibit F.

13

14 I declare under penalty of perjury under the laws of the State of California
15 and the United States of America, that the foregoing is true and correct.

16 Executed this 26 day of July 2010 in Los Angeles, California.

17

18

/s/ Staci J. Riordan

19

Staci J. Riordan

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EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

CASE NO. 8:06-cv-00431-SCB-TBM

USA FLEA MARKET, LLC, etc.,

Plaintiff,

v.

EVMC REAL ESTATE CONSULTANTS,
INC., etc.,

Defendant.

**NOTICE OF APPEARANCE AS COUNSEL
FOR DEFENDANT**

To: The Clerk of the Court and counsel of record

YOU ARE NOTIFIED that the undersigned hereby appears as counsel of record for
Defendant, EVMC Real Estate Consultants, Inc.

s/ *D. Culver Smith III*

D. Culver Smith III
Florida Bar No. 105933
<dcsmith@foxrothschild.com>
561-804-4403 (direct)

of
FOX ROTHSCHILD LLP
Suite 700, Esperanté Building
222 Lakeview Avenue
West Palm Beach, FL 33401
Telephone: 561-835-9600
Facsimile: 561-835-9602

Trial Counsel for Defendant

CASE NO. 8:06-cv-00431-SCB-TBM
Notice of Appearance as Counsel for Defendant

CERTIFICATE OF SERVICE

I certify that on June 30, 2009, I electronically filed the foregoing document with the Clerk of the Court by using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro-se parties identified on the attached service list in the manner specified, either via transmission of notices of electronic filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically notices of electronic filing.

s/ D. Culver Smith III

D. Culver Smith III

CASE NO. 8:06-cv-00431-SCB-TBM
Notice of Appearance as Counsel for Defendant

SERVICE LIST

USA Flea Market, LLC v. EVMC Real Estate Consultants, Inc.
CASE NO. 8:06-cv-00431-SCB-TBM
United States District Court for the Middle District of Florida

Lee Lamont Haas
<lee@haas-castillo.com>
Haas & Castillo, P.A.
19321C U.S. Highway 19 North
Clearwater, FL 33764
Telephone: 727-535-4544
Facsimile: 727-535-1855
Counsel for Plaintiff
By CM/ECF

EXHIBIT B

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
See Attachment A

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
Fox Rothschild LLP

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

APR 20 2010

John A. Clarke, Executive Officer/Clerk
By AMBER LAFLEUR-CLAYTON Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

Los Angeles Superior Court
111 North Hill Street
Los Angeles, CA 90012

CASE NUMBER:
(Número del Caso):

BC436130

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Malcolm S. McNeil, Esq. Staci J. Riordan Esq. T: 310.598.4150 F: 310.556.9828

Fox Rothschild LLP

1800 Century Park East, Suite 300, Los Angeles, CA 90012

DATE:

(Fecha)

JOHN A. CLARKE, Clerk by
AMBER LAFLEUR-CLAYTON, Deputy
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

APR 20 2010

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date):

Attachment A

Defendants:

AIDA ESACOVE, an individual;
LARRY ESACOVE, and individual;
ENGLEWOOD USA INC., a Nevada corporation;
EVMC REAL ESTATE CONSULTANTS, INC., a
California corporation;
MIGUEL VARGAS, an Individual;
ESTHER VARGAS, an Individual;
And DOES 1 - 10, inclusive.

MALCOLM S. MCNEIL, CA BAR NO. 109601
STACI JENNIFER RIORDAN, CA BAR NO. 232659
FOX ROTHSCHILD LLP
1800 Century Park East, Suite 300
Los Angeles, CA 90067
(310) 598-4150
(310) 556-9828 Fax

mmcneil@foxrothschild.com
sriordan@foxrothschild.com

Attorneys for Plaintiffs,
FOX ROTHSCHILD, LLP

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

APR 20 2010

John A. Clarke, Executive Officer/Clerk
By A. E. LaFleur-Clayton, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

BC 43 6130

FOX ROTHSCHILD, LLP, a Pennsylvania
limited liability partnership

Plaintiff,

vs.

AIDA ESACOVE, an individual; LARRY
ESACOVE, an individual; ENGLEWOOD
USA INC., a Nevada corporation; EVMC
REAL ESTATE CONSULTANTS, INC., a
California corporation; MIGUEL VARGAS, an
Individual; ESTHER VARGAS, an Individual;
and DOES 1 - 10, inclusive.

Defendants.

Case No.

VERIFIED COMPLAINT FOR
COLLECTION

1. Breach of Contract
2. Services Sold
3. Open Book
4. Account Stated
5. Quantum Meruit

Plaintiff Fox Rothschild. LLP ("Fox") alleges as follows:

///

///

///

PARTIES

1
2 1. Fox Rothschild, LLP is a Pennsylvania Limited Liability Partnership, doing business
3 in 15 locations across the United States, including in Los Angeles California and is qualified to
4 conduct business in the State of California.

5 2. Fox is a law firm duly registered with the State Bar of California.

6 3. Defendant Aida Esacove is an individual doing business in Los Angeles, California
7 and a resident of Encino, California.

8 4. Defendant Larry Esacove is an individual doing business in Los Angeles, California
9 and a resident of Encino, California.

10 5. Plaintiff is informed and believes that Defendant ENGLEWOOD USA INC.
11 ("Englewood") is a Nevada corporation doing business in Los Angeles County and throughout the
12 State of California. Plaintiff is further informed and believes that Englewood is a mere shell,
13 instrumentality and conduit through which individual defendants, Larry Esacove and Aida Esacove
14 (collectively the "Esacoves") carry on their business in the corporate name, exercising complete
15 control and dominance of such business to such extent that any individuality or separateness of said
16 corporate defendant does not exist, and in fact, there exists a unity of interest and ownership
17 establishing an alter ego relationship between these three defendants. An inequity will result if the
18 corporate entity is treated as the sole actor.

19 6. Upon information and belief, Defendant EVMC REAL ESTATE CONSULTANTS,
20 INC. ("EVMC"), is a California corporation doing business in Los Angeles California and
21 throughout the State of California. Plaintiff is further informed and believes that EVMC is a mere
22 shell, instrumentality and conduit through which individual defendants, Larry Esacove and Aida
23 Esacove (collectively the "Esacoves") carry on their business in the corporate name, exercising
24 complete control and dominance of such business to such extent that any individuality or
25 separateness of said corporate defendant does not exist, and in fact, there exists a unity of interest
26 and ownership establishing an alter ego relationship between these three defendants. An inequity
27 will result if the corporate entity is treated as the sole actor.

28 7. Upon information and belief, Defendant Miguel Vargas is a shareholder and a officer

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1 of EVMC. Upon information and belief, Miguel Vargas is a resident of Los Angeles County,
2 California.

3 8. Upon information and belief, Defendant Esther Vargas is a shareholder and a officer
4 of EVMC. Upon information and belief, Miguel Vargas is a resident of Los Angeles County,
5 California.

6 9. Plaintiffs are informed and believe and thereon allege that Does 1-10, inclusive, are
7 each, in some manner proximately responsible for the events and happenings alleged in this
8 complaint and for the Esacoves' damages. The Esacoves are ignorant of the true names and
9 capacities of Defendants sued herein as DOES 1 through 10, inclusive, and therefore sue these
10 Defendants by such fictitious names. Plaintiffs will amend this complaint to allege the true names
11 and capacities of said Defendants when the same has been ascertained. Unless otherwise stated, all
12 references to any named Defendant shall include the Doe Defendants.

13 10. Whenever or wherever reference is made in this Complaint to any act, failure to act,
14 or wrongdoing by a defendant, such allegations and references shall also be deemed to mean the acts
15 and/or failures to act by each defendant acting individually and jointly and severally.

16 11. Plaintiffs are informed and believes and thereon alleges that, at all relevant times,
17 each of the Defendants, including Does 1 through 10, inclusive, was the agent or employee of each
18 of the remaining defendants and, in doing the things alleged, was acting within the scope of that
19 agency or employment.

20 12. Damages in the instant action exceed the jurisdictional minimum of this Court.

21 13. This Court has jurisdiction over this action pursuant to California Code of Civil
22 Procedure section 410.10.

23 14. Venue is proper in this Court pursuant to California Code of Civil Procedure section
24 395. Plaintiff and all individual defendants reside in this county, EVMC conducts substantial
25 business within this county, Englewood conducts substantial business within this county, the acts
26 giving rise to this Complaint occurred in this county and Plaintiff was injured by Defendants' actions
27 within this county.

28 ///

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GENERAL FACTUAL ALLEGATIONS

15. In or about December 2008, plaintiff and the Esacoves entered into a written agreement for legal services. In or about June 2009, plaintiff and EVMC entered into a written agreement for legal services (the "Engagement Agreements").¹

16. Monthly statements for fees and costs incurred are rendered and sent. Payment in full is due upon receipt of each statement.

17. Defendants made regular payments until in or about July 2009.

18. Since July 2009, Plaintiff and Defendants discussed Defendants' outstanding account several times a week, with Plaintiff's attorneys as well as Plaintiff's accounting professionals. During each phone call, Defendants acknowledged the total debt and promised to pay it in full, stating they were in the process of liquidating personal assets.

19. In September 2009, Defendants made a good faith payment of \$25,000 towards their outstanding balance, and promised to make subsequent weekly payments thereafter.

20. To date, Defendants have not paid any further payments, despite multiple phone calls, letters and voicemails acknowledging the debt and promising to pay it in full.

21. Defendants purposely strung along Plaintiff knowingly maximizing the amount of professional services provided on their behalf.

22. Defendants made weekly promises to pay their outstanding account, but at the end of every week provide Plaintiff with another excuse why payment was not possible.

23. When confronted, Defendants admitted that they had not, despite promises otherwise, taken any steps to liquidate personal assets, but instead were waiting on funding from either an outside source or an investor.

24. Defendants also admitted that they paid a retainer to a new attorney for legal services, instead of making a payment towards their outstanding balance.

25. Defendants further admitted that they have income, are using and enjoying that income for their own purposes, but are not using it to make payments on their debt.

¹ To protect the privacy interests of Defendants and to maintain the attorney-client relationship to the extent possible, the Engagement Agreements have not been attached hereto. Plaintiff will be happy to provide those to the Court upon request for its review, either under seal or in camera.

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26. Defendants have ignored the sums owed to Plaintiff, despite the harm Defendants know that their failure to pay has caused Plaintiff and its employees.

27. In breach of said agreements, Defendants have failed and refused to pay plaintiffs for legal services rendered by plaintiff to defendant as well as for costs advanced by plaintiff on defendants' behalf in the sum of \$297, 730.90. Said sum plus interest at the legal rate is due and owing and unpaid to plaintiff, and plaintiff has been proximately damaged thereby.

28. Defendants never disputed plaintiff's fees. During every conversation relating to clearing up the outstanding balances, defendants acknowledged the debt, continuously advising plaintiff that they were in the process of arranging for **payment in full**.

29. In or about November 2009, Defendants informed plaintiff that they were seeking new counsel. Shortly thereafter, substitution notices were filed in all California state and federal court litigation matters wherein plaintiff represented Defendants.

30. The federal court rejected the request for substitution. In or about February 2010, the Esacoves' new counsel filed requests for substitutions. Once again the federal court denied the requests.

31. On February 22, 2010, pursuant to the terms of your Engagement Agreements and with Sections 6200-6206 of the California Business and Professions Code, plaintiffs sent defendants Notice of Client's Right to Arbitration. The thirty day time period for defendants to file a for arbitration has expired. To date, Defendants have fully acknowledged the receivable and made further promises to pay the outstanding balance in full.

32. On March 11, 2010, at Defendants' request, plaintiff filed a request to withdraw as counsel in the federal court action. The hearing on that motion is set for April 5, 2010.

33. Attempts at collection continue. Each conversation ends with Defendants promising to pay their bill in full, as soon as they can arrange for payment, and in some instances, promising liquidation of certain assets. To date, however, Defendants have not paid their current outstanding balance of \$297,730.90, but have instead diverted funds to other matters.

34. Defendants have intentionally, negligently, and maliciously refused make payment as required under the Service Agreements, despite knowing the financial risk and damage caused to

1 plaintiff. As a result of willful and knowing conduct of Defendants, Plaintiff has suffered special
2 and economic damages including interest on all sums, all in amounts to be proven at trial.

3 **FIRST CAUSE OF ACTION**
4 **(Breach of Written Contract Against All Defendants)**

5 35. Plaintiff reallege and incorporate into their First Cause of Action the allegations
6 contained in Paragraphs 1 through 34, inclusive.

7 36. Plaintiff and Defendants entered into a written contract in or about December 2008
8 whereby plaintiff agreed to supply legal service to Defendants and Defendant agreed to pay for same
9 at agreed prices. Plaintiff also agreed to advance costs on defendants behalf and defendants agreed
10 to reimburse plaintiff for same.

11 37. Plaintiff provided all services and things that the Service Agreement required it to do.

12 38. All conditions required by the Service Agreement for Defendants' performance have
13 occurred.

14 39. Defendant, however, has failed and refused to pay Plaintiff for the services provided
15 on behalf of Defendants in the sum of \$297,730.90. Said sum plus interest at the legal rate is due,
16 owing and unpaid to plaintiff and plaintiff was proximately damaged thereby.

17 **SECOND CAUSE OF ACTION**
18 **(Services Rendered Against All Defendants)**

19 40. Plaintiff reallege and incorporate into their Second Cause of Action the allegations
20 contained in Paragraphs 1 through 39, inclusive.

21 41. Within four years last past, in Los Angeles California, Defendants and each of them,
22 requested by words or conduct, that plaintiff perform legal services for the benefit of Defendants,
23 and Defendants agreed to pay Plaintiff the reasonable value of those services.

24 42. Plaintiff performed services as requested, and Defendants knew that Plaintiff
25 provided the legal services as requested.

26 43. Defendant has not paid Plaintiff for the services, which have a reasonable value of
27 \$297,730.90.
28

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1 44. As a result of Defendants' failure to repay the amount owed, Plaintiff has been
2 damaged in the amount of \$297,730.90, together with accrued interest at the legal rate, as well as all
3 attorneys' fees and costs incurred in collecting this amount.

4 **THIRD CAUSE OF ACTION**

5 **(Open Book Account Against All Defendants)**

6 45. Plaintiff reallege and incorporate into their Third Cause of Action the allegations
7 contained in Paragraphs 1 through 44, inclusive.

8 46. Within four years last past, in Los Angeles California, Defendants and each of them,
9 became indebted to Plaintiff on an open book account for legal services requested by Defendants, at
10 their special instance, services for which Defendants agreed to pay for on an hourly basis.

11 47. Plaintiff has performed the requested services and has kept and account of the debits
12 and credits related to the services requested by Defendants.

13 48. Defendants now owe plaintiff \$297,730.90 on the account.

14 49. Prior to the commencement of this action, demand was made upon the Defendants for
15 the payment of said balance. Defendants have refused, failed and neglected to pay the sum of
16 \$297,730.90, or any part thereof, and the whole of said sum, plus interest at the legal rate, as well as
17 all attorneys' fees and costs incurred in collecting this amount, is now due, owing and unpaid, and
18 plaintiff has been damaged to the extent thereof.

19 **FOURTH CAUSE OF ACTION**

20 **(Account Stated Against All Defendants)**

21 50. Plaintiff reallege and incorporate into their Fourth Cause of Action the allegations
22 contained in Paragraphs 1 through 49, inclusive.

23 51. Within four years last past, in Los Angeles California, Defendants became indebted to
24 Plaintiff for services requested by Defendants, at their special instance.

25 52. Each month, Plaintiff would send Defendants a written statement of their account.

26 53. Defendants, by words and conduct, agreed that the amount stated in the account was
27 the correct mount owed to Plaintiff.
28

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1 54. Defendants, by words and conduct, promised to pay the amount stated in the account
2 to Plaintiff.

3 55. Defendants now owe plaintiff \$297, 730.90 on the account.

4 56. Prior to the commencement of this action, demand was made upon the Defendants for
5 the payment of said balance. Defendants have refused, failed and neglected to pay the sum of
6 \$297,730.90, or any part thereof, and the whole of said sum, plus interest at the legal rate, as well as
7 all attorneys' fees and costs incurred in collecting this amount, is now due, owing and unpaid, and
8 plaintiff has been damaged to the extent thereof.

9
10 **FIFTH CAUSE OF ACTION**
11 **(Quantum Merit against All Defendants)**

12 57. Plaintiff reallege and incorporate into their Fifth Cause of Action the allegations
13 contained in Paragraphs 1 through 56, inclusive.

14 58. Plaintiff performed legal services at Defendants request.

15 59. Defendants knew that Plaintiff was performing these professional legal services to
16 Defendants and on Defendants' behalf and, accordingly, promised and agreed to pay Plaintiff the
17 reasonable value of said legal services.

18 60. Defendants accepted, used and enjoyed and continue to use and enjoy the benefits of
19 the legal services provided by Plaintiff.

20 61. Though Defendants initially paid Plaintiff for the legal services that they accepted
21 used and enjoyed, Defendants have failed and refused to fully compensate Plaintiff for the full value
22 of the legal services, despite multiple promises otherwise.

23 62. The fair and reasonable value of the legal services provided by Plaintiff to Defendants
24 is no less than 297,730.90.

25 63. Defendants' actions were willful, wanton, malicious in bad faith, and oppressive, and
26 were knowingly undertaken with the intent to defraud and inflict injury onto Plaintiff, and justify the
27 awarding of exemplary and punitive damages to be determined at trial.

28

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Los Angeles, California 90067

1 **WHEREFORE**, Plaintiffs pray for judgment against defendants, and each of them, as
2 follows:

- 3 A. For damages in the sum of \$297,730.90;
4 B. For interest at the legal rate from the date due;
5 C. For interest as provided by law, including but not limited to California Civil Code
6 3291;
7 D. For attorneys' fees incurred herein to the extent allowed by law;
8 E. For costs of suit incurred herein; and
9 F. For other and further relief as the Court considers just and proper.

10 ///

11 April 19, 2010

FOX ROTHSCHILD LLP

By _____
Malcolm S. McNeil
Staci J. Riordan
Attorneys for Plaintiff
FOX ROTHSCHILD LLP

Fox Rothschild LLP
1800 Century Park East, Suite 300
Los Angeles, California 90067

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I have drafted and read the foregoing Complaint For Collection know its contents.

My firm, Fox Rothschild, LLP (Fox), is the Plaintiff in this matter, and I am authorized to make this verification, and I make this verification for that reason. This Complaint for Collection was drafted by me and other attorneys at Fox and I am informed and believe that it is true and complete.

I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed this 19 day of April 2010, at Los Angeles, California.

Staci Jennifer Riordan.
Name of Signator

Signature

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name): Bar number, and address: Malcolm S. McNeil, SBN 10960 Staci J. Riordan, SBN 232659 FOX ROTHSCHILD LLP 1800 Century Park East, Suite 300 Los Angeles, CA 90067 TELEPHONE NO.: 310.598.4150 FAX NO.: 310.556.9828 ATTORNEY FOR (Name): Plaintiff Fox Rothschild LLP		FOR COURT USE ONLY CONFORMED COPY OF ORIGINAL FILED Los Angeles Superior Court APR 20 2010 John A. Clarke, Executive Officer/Clerk By <u>RENE FLEUR-CLAYTON</u> Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 N. Hill St. MAILING ADDRESS: SAME CITY AND ZIP CODE: Los Angeles, 90012 BRANCH NAME: Central District		
CASE NAME: Fox Rothschild LLP vs. Aida Esacove, Larry Esacove, Englewood USA, Inc., EVMC Real Estate Consultants, Inc., Miguel Vargas, Esther Vargas		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		CASE NUMBER: BC 436130 JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:		
Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input checked="" type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a. ☐ Large number of separately represented parties d. ☐ Large number of witnesses
b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. ☐ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): five (5); Breach of Contract, Services Sold; Open Book; Account Stated; Quantum Meruit
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: April 19, 2010

Staci J. Riordan

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

SHORT TITLE: Fox Rothschild LLP vs. Aida Esacove, Larry Esacove, Englewood
USA Inc., EVMC Real Estate Consultants, Inc. Miguel Vargas, Esther Vargas

CASE NUMBER

BC436130

**CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to LASC Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? ☒ YES CLASS ACTION? ☐ YES LIMITED CASE? ☐ YES TIME ESTIMATED FOR TRIAL 3 ☐ HOURS/ ☒ DAYS.

Item II. Select the correct district and courthouse location (4 steps - If you checked "Limited Case", skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet Form, find the main civil case cover sheet heading for your case in the left margin below, and, to the right in Column **A**, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column **B** below which best describes the nature of this case.

Step 3: In Column **C**, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Los Angeles Superior Court Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

1. Class Actions must be filed in the County Courthouse, Central District.
2. May be filed in Central (Other county, or no Bodily Injury/Property Damage).
3. Location where cause of action arose.
4. Location where bodily injury, death or damage occurred.
5. Location where performance required or defendant resides.
6. Location of property or permanently garaged vehicle.
7. Location where petitioner resides.
8. Location wherein defendant/respondent functions wholly.
9. Location where one or more of the parties reside.
10. Location of Labor Commissioner Office.

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death - Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos- Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 2., 4. 1., 2., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1., 2., 4.
		<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1., 2., 4.
<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress <input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death		1., 2., 3. 1., 2., 4.	
Non-Personal Injury/Property Damage/Wrongful Death Tort	Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 2., 3.
	Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
	Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.

Non-Personal Injury/Property Damage/
Wrongful Death Tort (Cont'd.)

SHORT TITLE: Fox Rothschild LLP vs. Aida Esacove, Larry Esacove, Englewood USA Inc., EVMC Real Estate Consultants, Inc., Miguel Vargas, Esther Vargas	CASE NUMBER
---	-------------

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons -See Step 3 Above
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.

Employment

Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1., 2., 3. 10.

Contract

Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not Unlawful Detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input checked="" type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5., 6 2., 5.
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.

Real Property

Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2, 6.
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property(not eminent domain, landlord/tenant, foreclosure)	2., 6. 2, 6.. 2., 6.

Judicial Review Unlawful Detainer

Unlawful Detainer- Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer- Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer- Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2, 6.
Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.

SHORT TITLE: Fox Rothschild LLP vs. Aida Esacove, Larry Esacove, Englewood USA Inc., EVMC Real Estate Consultants, Inc. Miguel Vargas, Esther Vargas	CASE NUMBER
--	-------------

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Judicial Review (Cont'd.)	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
	Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction defect	1., 2., 3.
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
	Enforcement of Judgment	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case
RICO (27)		<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
Other Complaints (Not Specified Above) (42)		<input type="checkbox"/> A6030 Declaratory Relief Only	1., 2., 8.
		<input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment)	2., 8.
		<input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex)	1., 2., 8.
Miscellaneous Civil Complaints	<input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8.	
	Partnership Corporation Governance(21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
Miscellaneous Civil Petitions	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment	2., 3., 9.
		<input type="checkbox"/> A6123 Workplace Harassment	2., 3., 9.
		<input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case	2., 3., 9.
		<input type="checkbox"/> A6190 Election Contest	2.
		<input type="checkbox"/> A6110 Petition for Change of Name	2., 7.
		<input type="checkbox"/> A6170 Petition for Relief from Late Claim Law	2., 3., 4., 8.
		<input type="checkbox"/> A6100 Other Civil Petition	2., 9.

SHORT TITLE: Fox Rothschild LLP vs. Aida Esacove, Larry Esacove, Englewood USA Inc., EVMC Real Estate Consultants, Inc. Miguel Vargas, Esther Vargas

CASE NUMBER

Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: CHECK THE NUMBER UNDER COLUMN C WHICH APPLIES IN THIS CASE		ADDRESS: 17761 Erwin Street	
<input type="checkbox"/> 1. <input type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input checked="" type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.			
CITY: Encino	STATE: CA	ZIP CODE: 91316	

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the LASC courthouse in the Central District District of the Los Angeles Superior Court (Code Civ. Proc., § 392 et seq., and LASC Local Rule 2.0, subds. (b), (c) and (d)).

Dated: April 19, 2010.

(SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet form CM-010.
4. Complete Addendum to Civil Case Cover Sheet form LACIV 109 (Rev. 01/07), LASC Approved 03-04.
5. Payment in full of the filing fee, unless fees have been waived.
6. Signed order appointing the Guardian ad Litem, JC form FL-935, if the plaintiff or petitioner is a minor under 18 years of age, or if required by Court.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
NOTICE OF CASE ASSIGNMENT - UNLIMITED CIVIL CASE
Case Number _____

BC 436130

THIS FORM IS TO BE SERVED WITH THE SUMMONS AND COMPLAINT

Your case is assigned for all purposes to the judicial officer indicated below (Local Rule 7.3(c)). There is additional information on the reverse side of this form.

ASSIGNED JUDGE	DEPT	ROOM	ASSIGNED JUDGE	DEPT	ROOM
Hon. Elihu M. Berle	1	534	Hon. Holly E. Kendig	42	416
Hon. J. Stephen Czuleger	3	224	Hon. Mel Red Recana	45	529
Hon. Luis A. Lavin	13	630	Hon. Debre Katz Weintraub	47	507
Hon. Terry A. Green	14	300	Hon. Elizabeth Allen White	48	506
Hon. Richard Fruin	15	307	Hon. Conrad Aragon	49	509
Hon. Rita Miller	16	306	Hon. John Shepard Wiley Jr.	50	508
Hon. Richard E. Rico	17	309	Hon. Abraham Khan	51	511
Hon. Rex Heeseman	19	311	Hon. Susan Bryant-Deason	52	510
Hon. Kevin C. Brazile	20	310	Hon. John P. Shook	53	513
Hon. Zaven V. Sinanian	23	315	Hon. Ernest M. Hiroshige	54	512
Hon. Robert L. Hess	24	314	Hon. Malcolm H. Mackey	55	515
Hon. Mary Ann Murphy	25	317	Hon. Jane L. Johnson	56	514
Hon. James R. Dunn	26	316	Hon. Ralph W. Dau	57	517
Hon. Yvette M. Palazuelos	28	318	Hon. Rolf M. Treu	58	516
Hon. John A. Kronstadt	30	400	Hon. David L. Minning	61	632
Hon. Alan S. Rosenfield	31	407	Hon. Michael L. Stern	62	600
Hon. Mary H. Strobel	32	406	Hon. Kenneth R. Freeman	64	601
Hon. Charles F. Palmer	33	409	Hon. Mark Mooney	68	617
Hon. Amy D. Hogue	34	408	Hon. Ramona See	69	621
Hon. Daniel Buckley	35	411	Hon. Soussan G. Bruguera	71	729
Hon. Gregory Alarcon	36	410	Hon. Ruth Ann Kwan	72	731
Hon. Joanne O'Donnell	37	413	Hon. Teresa Sanchez-Gordon	74	735
Hon. Maureen Duffy-Lewis	38	412	Hon. William F. Fahey	78	730
Hon. Michael C. Solner	39	415	Hon. Emilie H. Elias*	324	CCW
Hon. Michelle R. Rosenblatt	40	414	Other		
Hon. Ronald M. Sohigian	41	417			

***Class Actions**

All class actions are initially assigned to Judge Emilie H. Elias in Department 324 of the Central Civil West Courthouse (600 S. Commonwealth Ave., Los Angeles 90005). This assignment is for the purpose of assessing whether or not the case is complex within the meaning of California Rules of Court, rule 3.400. Depending on the outcome of that assessment, the class action case may be reassigned to one of the judges of the Complex Litigation Program or reassigned randomly to a court in the Central District.

Given to the Plaintiff/Cross-Complainant/Attorney of Record on _____ JOHN A. CLARKE, Executive Officer/Clerk
By _____, Deputy Clerk

INSTRUCTIONS FOR HANDLING UNLIMITED CIVIL CASES

The following critical provisions of the Chapter Seven Rules, as applicable in the Central District, are summarized for your assistance.

APPLICATION

The Chapter Seven Rules were effective January 1, 1994. They apply to all general civil cases.

PRIORITY OVER OTHER RULES

The Chapter Seven Rules shall have priority over all other Local Rules to the extent the others are inconsistent.

CHALLENGE TO ASSIGNED JUDGE

A challenge under Code of Civil Procedure section 170.6 must be made within 15 days after notice of assignment for all purposes to a judge, or if a party has not yet appeared, within 15 days of the first appearance.

TIME STANDARDS

Cases assigned to the Individual Calendaring Court will be subject to processing under the following time standards:

COMPLAINTS: All complaints shall be served within 60 days of filing and proof of service shall be filed within 90 days of filing.

CROSS-COMPLAINTS: Without leave of court first being obtained, no cross-complaint may be filed by any party after their answer is filed. Cross-complaints shall be served within 30 days of the filing date and a proof of service filed within 60 days of the filing date.

A Status Conference will be scheduled by the assigned Independent Calendar Judge no later than 270 days after the filing of the complaint. Counsel must be fully prepared to discuss the following issues: alternative dispute resolution, bifurcation, settlement, trial date, and expert witnesses.

FINAL STATUS CONFERENCE

The Court will require the parties at a status conference not more than 10 days before the trial to have timely filed and served all motions in limine, bifurcation motions, statements of major evidentiary issues, dispositive motions, requested jury instructions, and special jury instructions and special jury verdicts. These matters may be heard and resolved at this conference. At least 5 days before this conference, counsel must also have exchanged lists of exhibits and witnesses and have submitted to the court a brief statement of the case to be read to the jury panel as required by Chapter Eight of the Los Angeles Superior Court Rules.

SANCTIONS

The court will impose appropriate sanctions for the failure or refusal to comply with Chapter Seven Rules, orders made by the Court, and time standards or deadlines established by the Court or by the Chapter Seven Rules. Such sanctions may be on a party or if appropriate on counsel for the party.

This is not a complete delineation of the Chapter Seven Rules, and adherence only to the above provisions is therefore not a guarantee against the imposition of sanctions under Trial Court Delay Reduction. Careful reading and compliance with the actual Chapter Rules is absolutely imperative.

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION PACKAGE**

[CRC 3.221 Information about Alternative Dispute Resolution]

For additional ADR information and forms visit the Court ADR web application at www.lasuperiorcourt.org (click on ADR).

The plaintiff shall serve a copy of this Information Package on each defendant along with the complaint (Civil only).

What is ADR:

Alternative Dispute Resolution (ADR) is the term used to describe all the other options available for settling a dispute which once had to be settled in court. ADR processes, such as arbitration, mediation, neutral evaluation (NE), and settlement conferences, are less formal than a court process and provide opportunities for parties to reach an agreement using a problem-solving approach.

There are many different kinds of ADR. All of them utilize a "neutral", an impartial person, to decide the case or help the parties reach an agreement.

Mediation:

In mediation, a neutral person called a "mediator" helps the parties try to reach a mutually acceptable resolution of the dispute. The mediator does not decide the dispute but helps the parties communicate so they can try to settle the dispute themselves. Mediation leaves control of the outcome with the parties.

Cases for Which Mediation May Be Appropriate

Mediation may be particularly useful when parties have a dispute between or among family members, neighbors, or business partners. Mediation is also effective when emotions are getting in the way of resolution. An effective mediator can hear the parties out and help them communicate with each other in an effective and nondestructive manner.

Cases for Which Mediation May Not Be Appropriate

Mediation may not be effective if one of the parties is unwilling to cooperate or compromise. Mediation also may not be effective if one of the parties has a significant advantage in power over the other. Therefore, it may not be a good choice if the parties have a history of abuse or victimization.

Arbitration:

In arbitration, a neutral person called an "arbitrator" hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are often relaxed. Arbitration may be either "binding" or "nonbinding." *Binding arbitration* means that the parties waive their right to a trial and agree to accept the arbitrator's decision as final. *Nonbinding arbitration* means that the parties are free to request a trial if they do not accept the arbitrator's decision.

Cases for Which Arbitration May Be Appropriate

Arbitration is best for cases where the parties want another person to decide the outcome of their dispute for them but would like to avoid the formality, time, and expense of a trial. It may also be appropriate for complex matters where the parties want a decision-maker who has training or experience in the subject matter of the dispute.

Cases for Which Arbitration May Not Be Appropriate

If parties want to retain control over how their dispute is resolved, arbitration, particularly binding arbitration, is not appropriate. In binding arbitration, the parties generally cannot appeal the arbitrator's award, even if it is not supported by the evidence or the law. Even in nonbinding arbitration, if a party requests a trial and does not receive a more favorable result at trial than in arbitration, there may be penalties.

Neutral Evaluation:

In neutral evaluation, each party gets a chance to present the case to a neutral person called an "evaluator." The evaluator then gives an opinion on the strengths and weaknesses of each party's evidence and arguments and about how the dispute could be resolved. The evaluator is often an expert in the subject matter of the dispute. Although the evaluator's opinion is not binding, the parties typically use it as a basis for trying to negotiate a resolution of the dispute.

Cases for Which Neutral Evaluation May Be Appropriate

Neutral evaluation may be most appropriate in cases in which there are technical issues that require special expertise to resolve or the only significant issue in the case is the amount of damages.

Cases for Which Neutral Evaluation May Not Be Appropriate

Neutral evaluation may not be appropriate when there are significant personal or emotional barriers to resolving the dispute.

Settlement Conferences:

Settlement conferences may be either mandatory or voluntary. In both types of settlement conferences, the parties and their attorneys meet with a judge or a neutral person called a "settlement officer" to discuss possible settlement of their dispute. The judge or settlement officer does not make a decision in the case but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. Settlement conferences are appropriate in any case where settlement is an option. Mandatory settlement conferences are often held close to the date a case is set for trial.

LOS ANGELES SUPERIOR COURT ADR PROGRAMS

CIVIL:

- **Civil Action Mediation** (Governed by Code of Civil Procedure (CCP) sections 1775-1775.15, California Rules of Court, rules 3.850-3.868 and 3.870-3.878, Evidence Code sections 1115-1128, and Los Angeles Superior Court Rules, chapter 12.)
- **Retired Judge Settlement Conference**
- **Neutral Evaluation** (Governed by Los Angeles Superior Court Rules, chapter 12.)
- **Judicial Arbitration** (Governed by Code of Civil Procedure sections 1141.10-1141.31, California Rules of Court, rules 3.810-3.830, and Los Angeles Superior Court Rules, chapter 12.)
- **Eminent Domain Mediation** (Governed by Code of Civil Procedure section 1250.420.)
- **Civil Harassment Mediation**
- **Small Claims Mediation**

FAMILY LAW (non-custody):

- **Mediation**
- **Forensic Certified Public Accountant (CPA) Settlement Conference**
- **Settlement Conference**
- **Nonbinding Arbitration** (Governed by Family Code section 2554.)

PROBATE:

- **Mediation**
- **Settlement Conference**

NEUTRAL SELECTION

Parties may select a mediator, neutral evaluator, or arbitrator from the Court Party Select Panel or may hire someone privately, at their discretion. If the parties utilize the Random Select Mediation or Arbitration Panel, the parties will be assigned on a random basis the name of one neutral who meets the case criteria entered on the court's website.

COURT ADR PANELS

- Party Select Panel** The Party Select Panel consists of mediators, neutral evaluators, and arbitrators who have achieved a specified level of experience in court-connected cases. The parties (collectively) may be charged \$150.00 per hour for the first three hours of hearing time. Thereafter, the parties may be charged for additional hearing time on an hourly basis at rates established by the neutral if the parties consent in writing.
- Random Select Panel** The Random Select Panel consists of trained mediators, neutral evaluators, and arbitrators who have not yet gained the experience to qualify for the Party Select Panel, as well as experienced neutrals who make themselves available pro bono as a way of supporting the judicial system. It is the policy of the Court that all Random Select panel volunteer mediators, neutral evaluators, and arbitrators provide three hours hearing time per case. Thereafter, the parties may be charged for additional hearing time on an hourly basis at rates established by the neutral if the parties consent in writing.
- Private Neutral** The market rate for private neutrals can range from \$300-\$1,000 per hour.

ADR ASSISTANCE

For assistance regarding ADR, please contact the ADR clerk at the courthouse in which your case was filed.

COURTHOUSE	ADDRESS	ROOM	CITY	PHONE	FAX
Antonovich	42011 4th St. West	None	Lancaster, CA 93534	(661)974-7275	(661)974-7060
Chatsworth	9425 Penfield Ave.	1200	Chatsworth, CA 91311	(818)576-8565	(818)576-8687
Compton	200 W. Compton Blvd.	1002	Compton, CA 90220	(310)603-3072	(310)223-0337
Glendale	600 E. Broadway	273	Glendale, CA 91206	(818)500-3160	(818)548-5470
Long Beach	415 W. Ocean Blvd.	316	Long Beach, CA 90802	(562)491-6272	(562)437-3802
Norwalk	12720 Norwalk Blvd.	308	Norwalk, CA 90650	(562)807-7243	(562)462-9019
Pasadena	300 E. Walnut St.	109	Pasadena, CA 91101	(626)356-5685	(626)666-1774
Pomona	400 Civic Center Plaza	106	Pomona, CA 91766	(909)620-3183	(909)629-6283
San Pedro	505 S. Centre	209	San Pedro, CA 90731	(310)519-6151	(310)514-0314
Santa Monica	1725 Main St.	203	Santa Monica, CA 90401	(310)260-1829	(310)319-6130
Stanley Mosk	111 N. Hill St.	113	Los Angeles, CA 90012	(213)974-5425	(213)633-5115
Torrance	825 Maple Ave.	100	Torrance, CA 90503	(310)222-1701	(310)782-7326
Van Nuys	6230 Sylmar Ave.	418	Van Nuys, CA 91401	(818)374-2337	(818)902-2440

Partially Funded by the Los Angeles County Dispute Resolution Program

A complete list of the County Dispute Resolution Programs is available online and upon request in the Clerk's Office.

EXHIBIT C



THE GUERRINI LAW FIRM
Collection and Real Estate Litigation

August 14, 2009

Via Facsimile 310-556-9828 and Electronic Mail SRiordan@foxrothschild.com

Staci J. Riordan
Fox Rothschild LLP
1800 Century Park East, Suite 300
Los Angeles, CA 90067

Re: Rischer v. Banlavoura
USDC Case Number CV 96-3886 SJO (RNBx)

Ms. Riordan:

I write to meet and confer with you on this matter. On November 20, 2008 the Court entered an assignment order in favor of my client and against your clients and 23 of their entities, including EVMC Real Estate Consultants, Inc. ("EVMC"). On November 21, 2008 notice of this assignment order was served upon your clients and these entities.

On May 6, 2009 and again on June 18, 2009 and July 6, 2009, Larry Esacove confirmed in judgment debtor examination proceedings that income from EVMC allowed him to meet his monthly overhead, including almost \$30,000 a month in mortgages and car payments, as well as legal fees to your firm. This is in direct violation of the Court's order. According to the order, all income from EVMC was assigned to my client -- including income paid 'either directly or indirectly'. This covers income thinly disguised as loans as well as payments made directly to third parties to cover the judgment debtors' personal expenses. Moreover, the Esacoves failed to timely apply to the Court under §708.550 and thus have waived all rights to any exemption.

Please have your clients tender payment by August 21, 2009 to my client for 100% of all payments received from any of the parties named in the court's order since November 20, 2008. If a response is not received by August 21, 2009, my client will have no choice but to apply for a contempt order.

Thank you for your anticipated cooperation and prompt attention to the above.

Very truly,

John D. Guerrini

EXHIBIT D



Fox Rothschild LLP
ATTORNEYS AT LAW

1800 Century Park East, Suite 300
Los Angeles, CA 90067-1506
Tel 310.598.4150 Fax 310.556.9828
www.foxrothschild.com

Staci J. Riordan
Direct Dial: (310) 598-4180
Email Address: sriordan@foxrothschild.com

August 20, 2009

VIA U.S. MAIL AND EMAIL (GUERRINI@GUERRINILAW.COM)

John D. Guerrini, Esq.
THE GUERRINI LAW FIRM
750 East Green Street, Suite 200
Pasadena, California 91101

Re: Rischer v. Banlavoura et al., Federal Court Case No. CV 96-03886 SJO-RNB

Dear Mr. Guerrini:

I am in receipt of your letter dated August 14, 2009 purporting to meet and confer with me regarding payments made by EVMC Real Estate Consultants, Inc. ("EVMC"). As an initial matter, I suggested that you are meeting and conferring with the wrong party -- Fox Rothschild, LLP does not represent EVMC in connection with this litigation nor is it authorized to make payments on its behalf.

Further, in your letter you state, that "Larry Esacove confirmed in judgment debtor examination proceedings that income from EVMC allowed him to meet his monthly overhead..." This was not his testimony. Before continuing the discussion raised by your August 14, 2009 letter, I request that we resolve the two issues addressed herein. I look forward to your response.

Very Truly Yours,


Staci J. Riordan

cc: Malcolm S. McNeil, Esq.

LAI 25182v1 08/20/09

California

Delaware

Florida

Nevada

New Jersey

New York

Pennsylvania

EXHIBIT E

EVMC Real Estate Consultants, Inc

**CORPORATE RESOLUTION OF BOARD OF DIRECTORS OF
EVMC REAL ESTATE CONSULTANTS, INC.**

All of the directors of EVMC Real Estate Consultants, Inc. were in attendance, in person or by telephone conference. General discussion was then held concerning the issue, and all aspects of the same, were fully explained in detail to the satisfaction of the Board Members.

The Board of Directors of EVMC Real Estate Consultants, Inc. an International Business Company incorporated on 27 April 2005 in the state of California, U.S.A. with Registered Offices at 9049 Washington Blvd., Pico Rivera, CA.90660 (hereinafter the "Company" or "EVMC") in a meeting held on this 1st day of November 2005, adopted the following Resolutions:

WHEREAS, EVMC has engaged Larry and Aida Esacove to serve as an independent consultants; and

WHEREAS, the Board of Directors deems it to be in EVMC's best interest to authorize loan or loans to Larry and or Aida Esacove from the company; and

NOW, THEREFORE, BE IT RESOLVED, that Larry and Aida Esacove be and hereby authorized to receive loans from EVMC.

Sincerely,



Anthony B. Chopra
President



(SEAL)

9049 Washington Blvd.
Pico Rivera, CA.90660

EXHIBIT F

EVMC Real Estate Consultants, Inc

**CORPORATE RESOLUTION OF BOARD OF DIRECTORS OF
EVMC REAL ESTATE CONSULTANTS, INC.**

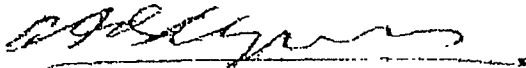
All of the directors of EVMC Real Estate Consultants, Inc. were in attendance, in person or by telephone conference. General discussion was then held concerning the issue, and all aspects of the same, were fully explained in detail to the satisfaction of the Board Members.

The Board of Directors of EVMC Real Estate Consultants, Inc. an International Business Company incorporated on 27 April 2005 in the state of California, U.S.A. with Registered Offices at 9049 Washington Blvd., Pico Rivera, CA.90660 (hereinafter the "Company" or "EVMC") in a meeting held on this 12th day of November 2005, adopted the following Resolution:

WHEREAS, Mr. Larry Esacove is authorized to open and sign bank accounts on behalf of EVMC.

NOW, THEREFORE, BE IT RESOLVED, that Mr. Larry Esacove is authorized to open and sign bank accounts on behalf of EVMC.

Sincerely,



Anthony B. Chopra
President



(SEAL)

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 1800 Century Park East, Suite 300, Los Angeles, California 90067-3005.

On July 26, 2010, I served the following document(s) described as **OPPOSITION OF NON-PARTY FOX ROTHSCHILD TO FEATHERBY'S MOTION FOR AN ORDER OF CONTEMPT AGAINST FOX ROTHSCHILD, LLP; DECLARATION OF STACI RIORDAN; EXHIBIT** on the interested parties in this action as follows:

Ramona Featherby
3344 McGraw Street
San Diego, CA 92117

Larry Esacove
17761 Erwin Street
Encino, CA 91316

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Fox Rothschild LLP practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 26, 2010, at Los Angeles, California.

/s/ April D. Villanueva

April D. Villanueva